RECEIVED

OCT 15 1996

Federal Communications Commission
Office of Secretary

Before the
Federal Communications Commission
Washington, D.C. 20054

In the Matter of	)	
	)	
Implementation of the Telecommunications Act of 1996:	)	CC Docket No. 96-193
	)	
Reform of the Filing Requirements and Carrier Classifications	)	DOCKET FILE COPY ORIGINAL
	)	
Anchorage Telephone Utility Petition for Withdrawal of Cost Allocation Manual	)	AAD95-91

COMMENTS OF THE UNITED STATES TELEPHONE ASSOCIATION

Its Attorneys

Mary McDermott
Linda Kent
Charles D. Cosson
Keith Townsend

1401 H Street, NW, Suite 600
Washington, D.C. 20005
(202) 326-7248

October 15, 1996

TABLE OF CONTENTS

SUMMARY

The Commission should be seeking every opportunity to reduce and eliminate current regulatory requirements for LECs consistent with the clear intent of the Act. The Act requires and the competitive marketplace demands a reduction in the regulatory burdens facing LECs. In order to accomplish this objective, the Commission should increase the reporting threshold to exempt those companies with less than two percent of the Nation's subscriber lines installed in the aggregate nationwide from any CAM or ARMIS requirements. This is the threshold established by Congress in the Act to recognize the fact that these companies are particularly vulnerable to regulatory burdens and competitive entry.

In addition, the Commission should eliminate the sixty day notice requirement as inconsistent with the provisions of the Act which require only annual filings. In addition, a common filing date for all ARMIS reports would be unduly burdensome. USTA proposes a more reasonable schedule for those companies required to file such reports.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matters of	)	
	)	
Implementation of the Telecommunications Act of 1996:	)	CC Docket No. 96-193
	)	
Reform of Filing Requirements and Carrier Classifications	)	
	)	
Anchorage Telephone Utility Petition for Withdrawal of Cost Allocation Manual	)	AAD 95-91

COMMENTS
OF THE
UNITED STATES TELEPHONE ASSOCIATION

The United States Telephone Association (USTA) respectfully submits its comments in the above-referenced proceeding. USTA is the principal trade association of the incumbent local exchange carrier (LEC) industry. Its members provide over 95 percent of the exchange carrier provided access lines in the U.S.

I. INTRODUCTION.

The reporting requirements at issue in this proceeding, imposed on certain USTA member companies, have outlived their usefulness and should be eliminated. In no instance should these requirements be expanded. The Telecommunications Act of 1996 requires, and the competitive telecommunications market demands, a reduction in the regulatory burdens facing incumbent LECs. The Commission should re-examine all of its rules and eliminate requirements which conflict with the intent of the 1996 Act to provide for a pro-competitive, de-regulatory national policy framework. Disparate regulatory treatment among LECs and their competitors can no longer be tolerated. The Commission should not apply different requirements for incumbent LECs and new entrants into LEC markets.[1] The Commission should undertake to ensure that its rules are consistent with the regulatory reform provisions of the Act and eliminate rules which are no longer necessary as is required under Section 11 of the Act.

II. THE COMMISSION MUST AMEND ITS RULES TO INCREASE THE THRESHOLD FOR FILING A COST ALLOCATION MANUAL AND FOR FILING ARMIS REPORTS.

Prior to the enactment of the Telecommunications Act of 1996, the Commission's rules at Section 64.903 required LECs with annual operating revenues of $100 million or more to file a Cost Allocation Manual (CAM). Section 402(c) of the Act requires the Commission to adjust this operating revenue trigger for CAM filings to account for inflation as of the release date of the Commission's Report and Order in CC Docket No. 91-141. The underlying threshold of $100 million of annual operating revenues contained in the Commission's rules is inconsistent with the intent of the Act and must be raised to comply with Congress' intent to reduce current regulatory burdens, particularly on small and mid-sized LECs.

The current threshold was established almost ten years ago. At that time, however, the Commission recognized the potential burdens which regulation poses for smaller LECs. In the Joint Cost Order which imposed the cost allocation rules, the Commission determined that small

[1]USTA supports the Commission's proposed rules changes to the extent that they apply to all local exchange carriers and not just incumbent local exchange carriers.

exchange carriers would not be required to implement and maintain CAMs because of the potentially burdensome nature of that requirement.[2] The Commission sought to protect relatively smaller LECs from onerous regulation.

In the decade since the Joint Cost Order was adopted, changes in technology and services have opened small and mid-sized LEC markets to competition. The 1996 Act sought to increase competition by eliminating remaining barriers to entry for new competitors. Given their smaller size and lack of resources, small and mid-sized LECs are particularly vulnerable to competitive entry and to unnecessary regulatory burdens. Competition accelerates the need for all LECs to have greater flexibility in responding to competitors who are not burdened by the same regulations. No LECs should be expected to compete crippled by the vestiges of regulations which have outlived their usefulness. Particularly for small and mid-sized LECs, it is unclear that they can survive against competitors like AT&T, MCI and Time Warner if the current regulatory restrictions remain in place. For example, larger LECs serve approximately 400 subscribers per square mile. Smaller LECs, in general, serve only approximately 20 subscribers per square mile. This statistic highlights the vulnerability of smaller LECs to the loss of even one high volume subscriber.

---

[2]Separation of Costs of Regulated Telephone Service From Costs of Nonregulated Activities Amendment of Part 31, the Uniform System of Accounts for Class A and Class B Telephone Companies to Provide for Nonregulated Activities and to Provide for Transactions Between Telephone Companies and Their Affiliates, Report and Order, 2 FCC Rcd 1298, 1304 (1987).

Congress recognized that smaller LECS must be provided relief from certain regulatory requirements.[3] The report accompanying the Telecommunications Act of 1996 states that a "level playing field" must be established for smaller companies facing "competition from a telecommunications carrier that is a largely global or nationwide entity that has financial and technological resources that are significantly greater than [the smaller LEC's] resources."[4]

Given the changes which have occurred over the past decade, the Commission must raise the current threshold. The Commission should utilize its authority under Section 10 of the Act and forbear from applying its CAM rules and ARMIS reporting requirements for those companies with less than two percent of the Nation's subscriber lines installed in the aggregate nationwide.[5] This threshold is consistent with the threshold established by Congress in Section 251 of the Act. It recognizes the fact that the nine largest LECS provide approximately 90 percent of the LEC-provided access lines in the U.S. In the Joint Cost Order, the Commission stated that the purpose of the CAM was to monitor cost allocations. The impact of small and mid-sized LECs on the Commission's monitoring needs is minimal and certainly does not justify the cost involved in preparing a CAM and performing a CAM audit in addition to the costs involved in filing ARMIS reports.

---

[3]See, Section 251(f)(1) and (2).

[4]Telecommunications Act of 1996, Joint Explanatory Statement at p. 119.

[5]In its comments in CC Docket No. 96-150, USTA argued that the Commission should forbear from applying its cost allocation rules for all incumbent LECs. Rather than repeat its arguments, USTA incorporates those comments by reference into the docket of this proceeding. USTA Comments filed August 26, 1996, Implementation of the Telecommunications Act of 1996: Accounting Safeguards Under the Telecommunications Act of 1996.

The criteria to justify forbearance are easily met. The threshold in Section 64.903 is not necessary to ensure that rates are just and reasonable and is not necessary for the protection of consumers. The Commission did not subject small and mid-sized LECs to its CAM filing requirement because it did not believe that such requirements were necessary to further the public interest. Given the increase in competition, there is even less reason to require the CAM today for any LEC. Modifying the threshold as suggested herein will promote competition by reducing the disparity in regulatory treatment among LECs and their competitors.[6] It is time that regulation for its own sake ceases. USTA strongly urges the Commission to consider the adverse impact of the current threshold on LECs and to revise its rules as described above.

III. THE EXISTING 60-DAY NOTICE REQUIREMENT IS INCONSISTENT WITH THE ACT AND SHOULD NOT BE RETAINED.

The Commission proposes two options for updating the CAM. First, the Commission suggests retaining the existing requirement that changes to time reporting and cost apportionment

---

[6]As an alternative, the Commission could use its authority under Section 220(h) of the Act to raise the current threshold to $250 million. A LEC with $100 million in operating revenues is less than one tenth of one percent of the total LEC operating revenues. Again, the burden of including such LECs in the Commission's monitoring requirements greatly outweigh any conceivable benefit to be derived by the Commission in having such data. The costs to the affected LECs and their customers of filing a CAM and ARMIS reports are far greater than the insignificant increase in data which the Commission could receive. Another alternative would be for the Commission to exercise its authority under Section 220(h) of the Act and require that only LECs with regulated revenues (instead of operating revenues) of over $100 million file CAMs and ARMIS reports. The use of operating revenues can result in volatility for LECs which are close to the threshold. For example, a single nonregulated sale could push a LEC over or under the threshold in any given year. The use of regulated revenues would be more consistent with the intent of the Joint Cost Order to ensure that nonregulated costs are not recovered through regulated services. It also better reflects the intent of Congress that the Commission focus its attention on those limited areas where regulation is absolutely necessary.

tables continue to be filed sixty days before implementation of the CAM. In the alternative, the Commission suggests that changes to any section of the CAM be filed annually and that a waiver be required if changes are required between annual filings. Both options are inconsistent with the Act and neither should be adopted.

Section 402(b)(2)(B) of the Act clearly states that the CAM only be filed on an annual basis. Retention of the sixty day requirement would result in multiple filings and thereby negate Congress' intent to reduce the filing requirement by specifying that an annual filing is sufficient. The Commission must recognize this intent since in its Order it states that "...we amend Section 64.903(b) of our rules to require carriers to update their cost allocation manual annually, rather than quarterly. Carriers are now required to file their annual updates on the last working day of each year."[7] Currently, changes involving significant systems modifications are implemented at the beginning of a calendar year.[8]

In its comments in CC Docket No. 96-150, USTA recommended that the Commission simplify its Part 64 requirements by eliminating the sixty day approval period, the quantification of cost pool and time reporting changes and the Common Carrier suspension provision. These changes will eliminate regulations which only serve to impose regulatory burdens on LECs. Such regulations cannot be justified in the competitive, deregulatory environment which Congress plainly intended.

---

[7]Order at ¶ 6.

[8]Cost Allocation Manual Uniformity Order, AAD92-42, released July 1, 1993 at ¶ 41.

Changes in cost allocation matrix tables can occur as a result of Commission decisions, as in the recent orders regarding the deregulation of inmate phones and the deregulation of payphones, or as a result of new services which cannot be accommodated within existing cost pools. LECs currently may request a special CAM filing to reflect those changes which are necessitated by Commission action. Requiring that a LEC provide sixty days notice to file a cost pool change to accommodate new services places the LEC at a competitive disadvantage. This requirement could conflict with Section 204(a)(3) which allows LECs to file tariffs for new services on a streamlined basis with only seven days' notice.

The waiver process is time consuming and only serves to burden LECs with added administrative costs. Waivers certainly should not be required for routine CAM changes. If the Commission insists that preliminary notice is justified, rather than retain the sixty day notice requirement or impose a waiver requirement, the Commission should adopt the following proposal.

The Commission should require that the CAM be updated on or before the last working day of the calendar year for all changes that were effective in that calendar year. The annual filing could indicate the changes that were implemented and the effective date. LECs could provide preliminary notification to the Commission staff of significant changes, but this should not be interpreted as support for reporting more frequently than annually. Significant changes are those that impact regulated operations by $1 million or more. The preliminary notification would have to be treated in a proprietary manner. All changes could be subject to public comment as part of the annual CAM filing.

USTA's proposal will provide the Commission with the preliminary notice it seeks while reducing the administrative burdens on LECs by limiting preliminary notification to significant changes. This proposal better reflects the actual wording as well as the overall intent of the Act.

IV. A COMMON FILING DATE FOR ALL ARMIS REPORTS WOULD BE UNDULY BURDENSOME FOR LECS.

The Commission also proposes a common filing date of April 1 for all ARMIS reports. While the Act specifies that the ARMIS reports only be filed on an annual basis, the Act does not require that the reports have to be filed on the same day. The Commission's proposal will increase the administrative burden on affected LECs.

The FCC Report 43-07 has been filed annually on June 30 since it was implemented in 1991. LECs which file this report have precesses and schedules in place to meet the current schedule. Moving the filing date to April 1 will require LECs to incur costs to alter established practice and adjust current schedules. There is no justification to change this date.

For many LECs, the same personnel and resources are devoted to the preparation of the FCC Report 43-08 and 43-07. The current filing schedule distributes this burden more efficiently. Retaining the current schedule will ensure that conflicts do not arise in attempting to complete each report and in attempting to meet state reporting requirements.

The current schedule also allows time to review and validate the 43-07 results. Establishing an earlier filing date for this report could impact the ability of LECs to verify data.

In order to alleviate these problems, USTA proposes the following schedule. The financial reports, FCC Reports 43-01, 43-02, 43-03, 43-04, 495A and 495B, should be due April

1 of each year and the operational and infrastructure reports, FCC Reports 43-05, 43-06, 43-07 and 43-08, should be due on July 1 of each year. Such a staggered approach will reduce the administrative burden on LECs and allow for more efficient use of company resources in the planning, preparation and filing of these reports.[9]

The Commission should continue to work with the industry to refine the ARMIS reporting process. Certainly in the biennial review of its regulations required under Section 11 of the Act, if not before, the Commission should consider consolidation of duplicative reporting and elimination of specific data that is no longer necessary or meaningful. For example, reporting data in several schedules contained on the FCC Report 43-02 pertain only to cost of service/revenue requirement regulation and should be eliminated for LECs under price cap regulation with no sharing requirements. Therefore, Schedule I-3 (Pension Cost), Schedule I-4 (Operating Other Taxes), Schedule I-5 (Prepaid Taxes and Tax Accruals), Schedule I-6 (Special Charges) and Schedule I-7 (Donations for Payment for Services Rendered by Persons Other Than Employees), among others, should be eliminated. In addition, USTA supports the Commission's proposal to eliminate the reporting requirement contained in Section 43.21(b) which required that supplemental information be submitted for LECs that maintain separate departments or divisions for carrier and non-carrier operations. Finally, reports that have been changed from quarterly to annual filings should reflect annual rather than quarterly data. If this annual data already appears on another report, the duplicative report should be eliminated.

---

[9] If the Commission does not adopt this schedule, the Commission must allow LECS sufficient time to prepare the reports. Therefore, the first cycle of reports should not be due until ninety days after the release of the Order in this proceeding, although no later than June 30.

Because the Act clearly intended that the Commission reduce regulatory burdens on LECs, the Commission's proposed rules certainly should not contain more restrictive language than what is currently required. Therefore, USTA proposes the following word changes for its proposed rules in Section 43.21(g) and (h):

> (g)Each local exchange carrier for whom price cap regulation is mandatory, and for every local exchange carrier that elects to be covered by the price cap rules, shall file, by July 1 of each year, a report designed to capture trends in service quality under price cap regulation. The report shall contain data relative to network measures of service quality, as defined by the Common Carrier Bureau, from the previous calendar year on a study area basis.
>
> (h)Each local exchange carrier for whom price cap regulation is mandatory shall file, by July 1 of each year, a report designed to capture trends in service quality under price cap regulation. The report shall contain data relative to customer measures of service quality, as defined by the Common Carrier Bureau, from the previous calendar year on a study area basis.

Finally, USTA also recommends that the Commission permit rate of return and optional incentive regulation LECs to file Form 492 on an annual basis beginning with the calendar year 1996 report due on April 1, 1997.[10] This would be consistent with the annual filing of ARMIS reports as recommended in this proceeding.

---

[10]This would be consistent with the Commission's Notice of Proposed Rulemaking in CC Docket No. 96-23 which proposed that the frequency of FORM 492 (Rate of Return Report) be submitted annually rather than quarterly.

V. CONCLUSION.

The Commission has the opportunity to implement the regulatory reform envisioned by the Act through the adoption of USTA's proposals as discussed herein. These proposals serve the public interest by reducing administrative burdens imposed on incumbent LECs and their customers and by promoting fair and efficient competition. This clearly is consistent with the 1996 Act.

Respectfully submitted,

UNITED STATES TELEPHONE ASSOCIATION

By: Linda Kent

Its Attorneys:

Mary McDermott
Linda Kent
Charles D. Cosson
Keith Townsend

1401 H Street, NW, Suite 600
Washington, D.C. 20005
(202)326-7248

October 15, 1996